IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9226 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MUNICIPAL & PANCHAYAT EMPLOYEES UNION

Versus

CHIEF SECRETARY TO THE GOVT. OF GUJARAT

Appearance:

1. Special Civil Application No. 9226 of 2004

MR PH PATHAK for Petitioner No. 1

MR KL PANDYA ASST.GOVERNMENT PLEADER for Respondent No. 1-2,4

MR SANJAY M AMIN for Respondent No. 3

NOTICE SERVED BY DS for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 01/03/2005

ORAL JUDGEMENT

1. Rule. Learned Mr.Sanjay M.Amin waives service of notice of rule on behalf of respondent No.3. Mr.K.L.Pandya, learned AGP waives service of notice of rule on behalf of respondent Nos.1, 2 and 4.

2. Learned counsel appearing for the petitioner mainly submitted that respondent No.3 is not paying regularly, the salary to the employees of the petitioner union and the accumulated salaries of the present petitioner union have not been paid by respondent No.3. It is also submitted by the learned counsel appearing for the petitioner that though the State of Gujarat has already given a grant to respondent No.3 for the payment of the salary to the members of the petitioner union, respondent No.3 is not disbursing the said amount to the members of the petitioner union. It is submitted by the learned counsel appearing for the petitioner that the members of the petitioner union are working with respondent No.3, even on today, peacefully. There is no misconduct on their part. Nonetheless, approximately, six months salary is not paid and still there is an arrears of salary to be paid by respondent No.3 to the members of the petitioner union. It is also contended by the learned counsel appearing for the petitioner that Life Insurance Corporation (LIC) premiums of the members of the petitioner union have been stopped paying by respondent No.3 and, therefore, respondent No.3 should be directed to make the payment of arrears of salary as well as to continue to pay the LIC premiums of the members of the petitioner union, who are working with respondent No.3.

3. I have heard the counsel appearing for respondent No.3, who has submitted that there is an arrears of salary for six months, by now but, in the month of March 2005, as per affidavit filed by Chief Officer, Kalol Nagarpalika dated 1st March 2005 to the effect that in the month of March 2005, over and above regular salary of the month of March 2005, arrears of two months salary shall be paid in the month of March 2005. Thus, in the month of March 2005, the members of the petitioner union shall get three months salary. Thereafter, there shall be arrears of four months salary, which as per the Chief Officer, Kalol Nagarpalika, as stated in paragraph No.7 of the affidavit in reply, shall be paid to the members of the petitioner union within a period of twelve months from April 2005, over and above the regular salary. From the month of April 2005 to March 2006, the members of the petitioner union shall be paid sixteen months salary. So far as LIC premiums are concerned, it is submitted by the

learned counsel appearing for respondent No.3 that there was an irregularity in the payment of salary difference and, therefore, there was no question of payment of LIC premiums, whatsoever arises by respondent No.3 to the members of the petitioner union and if the LIC premiums are not paid regularly, the benefit may not be available to the members of the petitioner union and, therefore, a letter was written by respondent No.3 dated 1st/5th April 2004, which is at Annexure-A to the memo of the present compilation. Nonetheless, there is no prayer for LIC premiums in the present petition and, therefore, the said aspect of the matter may be kept left open and present petition may be confined to the salary, regular as well as arrears thereof.

4. I have heard the learned AGP Mr.K.L.Pandya, who has also submitted that now respondent No.3 has undertaken to make the payment of salary, regular salary as well as accumulated salary and, therefore, suitable direction may be given to respondent No.3 and payment of LIC premiums may be kept open.

5. Having heard the counsels and looking to the facts and circumstances of the case and affidavit filed by respondent No.3, the two months arrears of salary will be paid in the month of March 2005, over and above the regular salary of the month of March 2005 by respondent No.3 to the members of the petitioner union and four months accumulated salary. Though it is stated in the affidavit that the same will be paid within next twelve months, looking to the facts and circumstances of the case, I hereby direct respondent No.3 that four months accumulated salary for the year 2004-05 shall be paid by respondent No.3 to the members of the petitioner union, within a period of eight months from April 2005.

6. Learned counsel appearing for the petitioner, at this stage, submitted that within a period of eight months, two installments should be given to respondent No.3 for making payment of arrears of four months salary.

7. I have heard the counsel appearing for the petitioner once again but, too much mathematical counting cannot be given to respondent No.3. Payment of salary by respondent No.3 is depend upon the grant given by the Government. Too much fixed timetable may lead to further complications. Suffice it to say that respondent No.3 shall not wait for eight months to be completed, if possibility is there to make the payment of four months salary earlier then the period of eight months from April 2005.

8. In view of the aforesaid direction, the petition stands disposed of, keeping LIC premiums point open to be raised by the petitioner at the relevant time with necessary averments and allegations and reserving the rights of the respondents to defend the same.

9. The petition stands disposed of with the aforesaid direction. Rule is made absolute to the aforesaid extent.

(D.N.Patel, J.)

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